THE HON'BLE Dr. JUSTICE G. YETHIRAJULU

Writ Petition No.24712 of 1998

ORDER:

This writ petition is filed by the rejected employees of Osmania University, Hyderbaad, praying to direct the respondent-University to pay them the arrears of salary for a period of two years from the respective dates of retirement deeming them to be in service up to their attaining the age of 60 years and other retirement benefits.

2) The petitioners averred in the affidavit, filed in support of the writ petition, that they are the retired employees of Osmania University. They all retired between 1983 and 1997 on attaining superannuation at the age of 58 years. The service conditions of non-teaching staff of the University are identical to the employees of the State Government. The University has to follow G.O.Ms.No.36 Finance Department, dated 08-02-1983 issued in order No.915/53/1983-Admn.II, dated 22-02-1983, fixing the age of superannuation of non-teaching staff at 55 years. The said order was challenged in the High Court through Writ Petition No.11524 of 1983, which was allowed on
27-02-1983. The appeal covered by Writ Appeal No.476 of 1987 was dismissed on 20-04-1989. The matter was carried to the Supreme Court by the University in S.L.P.No.14888-89 of 1989. During pendency of S.L.P., the petitioners were directed to continue till they reached the age of 60 years. However, during pendency of S.L.P., some employees retired on reaching the age of 58 years. Those employees also challenged the said action in Writ Petition No.11890 of 1990. The University was directed to retire the members of non-teaching staff only on attaining the age of superannaution of 60 years

and treat them to be in service till the age of 60 years though they have been retired at the age of 58 years. The appeal preferred by the University was also dismissed. A series of writ petitions were filed and the contention of the University was rejected up to Supreme Court.

The Employees Union requested the University to implement the judgment of the Supreme Court. When no action was taken, they filed contempt cases in the Supreme Court and the same are pending. The University filed two petitions in the Supreme Court that the judgments in Writ Appeals be reviewed and the said petitions were also dismissed on 29-04-1998. The respondent-University issued the impugned order on 25-07-1998 fixing the cut-off date and sanctioning the salary benefits to those who continued after completion of 58 years and retired on attaining the age of 60 years. Part III of the impugned order relates to the consequential benefits only to the writ petitioners in Writ Petition Nos.11524 of 1983 and 11890 of 1990, who retired at the age of 58 years deeming them to be in service till 60 years. The said order is challenged through this writ petition.

3) A Division Bench of this Court in W.P.No.22778 of 1998 and batch rendered the judgment on 16-11-2001. Those writ petitions were filed by various employees directing the University to pay the arrears of salary for the period of two years from the respective dates of their retirement till the completion of 60 years with all attendant benefits. In the said writ petitions filed before the Division Bench also, the petitioners retired from service on attaining the age of 58 years between 1985 and 1996. The Division Bench after referring to so much case law observed as follows:

> "The persons who approached this Court after a long lapse of time despite the decision of this Court rendered in 1987 though their case is covered by the decision of the Apex Court, may, however, form a separate and distinct class. In view of the decisions of the Apex Court referred to above, in our view, the benefit of the judgment of the

> Apex Court cannot be made applicable to those who had approached this Court after long delay. We are, therefore, of the opinion that on the ground of latches, petitioners are not entitled to any relief.
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> The petitioners who have retired on attaining the age of 58 years only and before they retire they did not claim that they are entitled to be continued till they attain the age of 60 years on par with teaching staff of the University. Therefore, the benefit of judgment of the Apex Court would be applicable only to those persons who had approached the Court in the year 1983 and to those who approached in 1990. The petitioners have simply kept quiet and having found that the Supreme Court rendered a judgment that the age of superannuation of non-teaching staff should be on par with teaching staff, they approached this Court for grant of arrears of salary and other benefits. In the facts and circumstances obtained therein, it cannot be said that there was any irrational classification. The employees were retired on account of the decision of Government in reducing the age of retirement. Here it is not a case the petitioners were made to retire on account of any order reducing the reduction of age. The benefit was granted by the Apex Court on the application of some of the employees who filed the writ petitions in 1983. In these circumstances, the delay and latches certainly play an important role in the matters before us. In the result, the writ petitions were dismissed."

4) The learned standing counsel for the respondent-University placed the above judgment of Division Bench and requested to dismiss the writ petition on the ground of laches.

5) The petitioners approached this Court in 1998. Though they have retired on attaining the age of superannuation of 58 years from 1983 to 1997, in view of the judgment of Division Bench, this writ petition also suffered from delay and laches. The petitioners did not claim their right at that point of time. As they did not work, the principle of 'no work no pay' would apply in their cases. They did not even make any representation to the University and thus, the University had no occasion to consider their claims. As the present petitioners also stand on the same footing, the decision of Division Bench is applied and in view of the said decision, the petitioners are not entitled for any relief.

6) Accordingly, the Writ Petition is dismissed. No order as to

costs.

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Dr.G. YETHIRAJULU, J

Date: --07—2006
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THE HON'BLE Dr. JUSTICE G. Y ETHIRAJULU

Writ Petition No.24712 of 1998

Date: ---7—2006

Between:

Mohd. Osman,
and 8 others **… Petitioners**

and

The Registrar, Osmania University,
Hyderabad.
… Respondent